IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

Crl.MC.No. 2226 of 2007()

CC.102/2005 of JUDL.MAGISTRATE OF FIRST CLASS-II, THAMARASSERY

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PETITIONER: ACCUSED 1 TO 3

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1. K.GIREESAN, S/O.K.V.RAMAN MENON,
   'KAIVALYAM', 38/332-A, NANDANAM,
   KARITHALA CROSS, KARSHAKA ROAD, COCHIN-16.

2. M.B.MOHAN, S/O.BHASKARAN,
   PLOT NO.135, 'SAGARIKA', IST FLOOR,
   JAWAHAR NAGAR, KADAVANTHARA, COCHIN-20.

3. PRAKASH VASUDEVAN, 89-A,
   9TH FLOOR VICTORIA GARDEN, 100 FEET ROAD,
   COYAMBEDU, CHENNAI- 600 107.

BY ADV. SRI.M.C.JOHN

RESPONDENTS: COMPLAINANT

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 11/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 2226 of 2007

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Dated this the 11th day of July, 2007

O R D E R

The petitioners are accused 1 to 3 in a prosecution under the provisions of the Kerala Forest Act. The petitioners face indictment on the allegation that a portion of a temporary building constructed by them trespasses into the forest. It is submitted that the petitioners have filed a petition under Section 482 Cr.P.C. for quashing the proceedings initiated against them.

2. Be that as it may, when the matter came up for trial on 28.5.2007 the petitioners were not present. It would appear that one witness was present - ready to be examined. The petitioners' counsel was not ready to go on with the trial. The learned Magistrate in these circumstances rejected the application filed by the counsel to excuse the absence of the petitioners and directed issue of non-bailable warrants to the accused and notice to the sureties of the accused. The petitioners hence find themselves facing the unenviable predicament of warrants of arrest issued by the learned Magistrate chasing them. They pray that appropriate directions may be issued under Section 482 Cr.P.C.

3. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate why they could not appear on the last date of posting. I find no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioners when they surrender before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Their bail applications, if filed with sufficient prior notice to the Prosecutor, must be disposed of on the date of surrender itself.

4. The learned counsel for the petitioners submits that the petitioners may be given breathing time to appear before the learned Magistrate and the non-bailable warrants issued against them may not be executed till then. I am satisfied that the petitioners can be granted time till 23.7.2007. Till that date the warrants of arrest issued against the petitioners shall not be executed.

5. This Crl.M.C. is accordingly dismissed with the above observations.

6. Hand over copy of the order.

(R. BASANT)
Judge

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